

APPEAL NO. 010572

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 1, 2001. The hearing officer resolved the disputed issues of injury and disability by deciding:

1. The appellant (claimant herein) did not sustain a compensable injury on _____, either in the form of a specific injury or an occupational disease.
2. The claimant did not have disability.

The claimant appealed, contending that the hearing officer's finding that he did not sustain a compensable injury was contrary to the evidence. The respondent (carrier) responds that there is sufficient evidence in the record to support the hearing officer's findings of no injury and no disability.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

There was conflicting evidence presented at the CCH on the issue of injury. The claimant testified that he was injured while working for the employer as he was operating a forklift. The claimant testified that he developed headaches after an incident on _____, when one side of the forklift he was driving went into a hole. The claimant later developed neck pain and testified that operating the forklift required a great deal of head movement. The medical evidence indicated that the claimant was diagnosed with tension headaches with an onset predating his alleged date of injury. The question under our standard of review was whether the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Applying this standard, we find sufficient evidence to support the hearing officer's finding that the claimant did not sustain a compensable injury on _____. Finally, with no compensable injury found, there is no loss upon which to find disability. By definition, disability depends upon a compensable injury. See Section 401.011(16).

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Philip F. O'Neill
Appeals Judge